

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 802 – SB 901**

March 23, 2021

**SUMMARY OF BILL:** Requires a magistrate to order the use of a global positioning monitoring system as a condition of requiring bail for a defendant in cases of domestic violence victim or for a violation of an order of protection, if requested by the victim.

Requires an arresting officer of specific offenses to ask the victim if they request the defendant carry or wear a global positioning monitoring system device as a condition of bail.

**ESTIMATED FISCAL IMPACT:**

**Decrease Local Expenditures – Net Impact –**

**\$832,300/FY21-22 and Subsequent Years**

**Other Fiscal Impact – The state is only required to match local government commitments to the Electronic Monitoring Indigency Fund if funds are available. It is unknown if such necessary funds will be budgeted in the future. If so, there will be an increase in state expenditures up to \$7,600 in FY21-22 and subsequent years. This would in turn result in a decrease in local government expenditures up to \$7,600 in FY20-21 and subsequent years.**

**Assumptions:**

- Pursuant to the language of this legislation, a magistrate is required, rather than authorized, to order the use of a global positioning monitoring system as a condition of requiring bail for a defendant in cases of domestic violence victim or for a violation of an order of protection, if requested by the victim.
- According to the Tennessee Bureau of Investigation's (TBI) annual reports on domestic violence, between the 2018 and 2020 calendar years, there were an average of 71,405 domestic violence related charges each year.
- Of those, an average of 7,323 victims refused to cooperate or pursue prosecution. An additional average of 1,352 of these charges, prosecutors denied prosecution.
- Therefore, it is assumed that 62,730 (71,405 – 7,323 – 1,352) defendants could be eligible for mandated GPS monitoring under this legislation.
- It is currently unknown how many victims currently request to a magistrate such monitoring and are denied.

- For the purposes of this analysis, it is assumed an additional two percent of all defendants will be mandated to wear a monitoring device that would not have without this legislation.
- Thus, 1,255 (62,730 x 2%) additional GPS monitors will be issued each year.
- It is estimated that approximately 20 percent of those (or 251 individuals) will be declared to have a hardship and will require funding assistance.
- The average cost of a GPS monitor is \$2.75 per day.
- Pursuant to the Tennessee Criminal Court Proceedings, Rule 5(c)(2), unless the defendant expressly waives the right to a preliminary hearing, when the defendant pleads not guilty the magistrate shall schedule a preliminary hearing to be held within 14 days if the defendant remains in custody and within 30 days if released.
- For the purposes of this analysis, it is estimated a released defendant will be monitored for an average of 22 days.
- The recurring, mandatory increase in local expenditures is estimated to exceed \$15,186 (251 individuals x \$2.75 x 22 days) in FY21-22 and subsequent years.
- The EMIF (Electronic Monitoring Indigency Fund) is now available to pay 50 percent of the cost of pretrial GPS monitoring for indigent domestic violence defendants, following the enactment of Public Chapter 505 (2019), with the other 50 percent covered by local governments.
- The EMIF currently prioritizes funding for ignition interlock devices in DUI cases, with the cost of other types of alcohol and GPS monitoring covered only with money remaining. In FY20-21, the program budgeted a total of \$492,000 for FY20-21.
- As the state is only required to match local government commitments, if funds are available and if a local government has already committed funds, it is unknown if such necessary funds will be budgeted in the future. If so, there will be an increase in state expenditures up to \$7,593 (\$15,186 x 50%) in FY21-22 and subsequent years. This would in turn result in a decrease in local government expenditures up to \$7,593 (\$15,186 x 50%) in FY21-22 and subsequent years.
- Multiple studies have shown that domestic violence defendants violate orders of protection between 66.7 and 80 percent. Those such defendants ordered to wear a monitoring device only violate an order an average of five percent of the time.
- Pursuant to Tenn. Code Ann. § 39-13-113(g), it is a Class A misdemeanor offense to knowingly violate an order of protection, with a mandatory 12 hour holding period.
- The average incarceration period for a Class A misdemeanor offense is 15 days in jail.
- Based on the 2020 Fiscal Review Committee survey, the weighted average cost to local governments to house an inmate in a local jail facility is \$73 per day.
- Of the average 1,255 additional domestic violence defendants that would be ordered a device under this legislation, it can be reasonably assumed that at least 837 (1,255 x 66.7%) would have violated an order of protection without a monitoring device.
- With a mandated GPS monitoring device, only 63 (1,255 x 5%) defendants are estimated to do so.
- There will be a reduction in local incarceration costs of at least \$847,530 [15 x \$73 x (837 – 63)] in FY21-22 and subsequent years.
- The net decrease in local government expenditures in FY21-22 and subsequent years is estimated to be \$832,344 (\$847,530 - \$15,186).

- Requiring an arresting officer to ask a victim of a violation of an order of protection or domestic abuse if they request the defendant carry or wear a global positioning monitoring system device as a condition of bail will not significantly impact state or local expenditures.
- Any impact to the court system is estimated to be not significant.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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